

**REMARKS**

Claims 1-14 are all the claims pending in the application. By this Amendment, Applicant amends claims 1 and 7 to further clarify the invention. In addition, Applicant adds claim 14.

Claim 14 is clearly supported throughout the specification, *e.g.*, pages 4 to 6.

**Preliminary Matters**

Applicant thanks the Examiner for accepting the Drawings. In addition, Applicant thanks the Examiner for withdrawing objections to the specification and the claims.

**Summary of the Office Action**

Applicant thanks the Examiner for withdrawing the previous rejection. The Examiner, however, found new grounds for rejecting the claims. In particular, claims 1-6, 12, and 13 are rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 5,948,069 to Kitai et al. (hereinafter “Kitai”) and claims 7-11 are rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,069,947 to Evans et al. (hereinafter “Evans”) in view of Kitai.

**Claims Rejections under 35 U.S.C. § 102**

Claims 1-6 and 12-13 are rejected under 35 U.S.C. § 102(e) as being anticipated by Kitai. Applicant respectfully traverses this rejection in view of the following comments.

To be an “anticipation” rejection under 35 U.S.C. § 102, the reference must teach every element and recitation of the Applicant’s claims. Rejections under 35 U.S.C. § 102 are proper only when the claimed subject matter is identically disclosed or described in the prior art. Thus,

the reference must clearly and unequivocally disclose every element and recitation of the claimed invention.

Of the rejected claims, only claim 1 is independent. Among a number of unique features, claim 1 recites: “each of said software agents comprises at least a piece of an object code of a distributed computing that is at least partially independent and wherein said software agents use the communication means to communicate with each other.” The Examiner asserts that claim 1 is directed to a system for changing the communication means and is anticipated by the teachings of Kitai. The Examiner asserts that the software agents communicating with each other as set forth in claim 1 are equivalent to Kitai’s client computer and Kitai’s server and the programs running on these hardware devices (see page 2 of the Office Action). Applicant has carefully studied Kitai’s discussion of the communication between the client computer and the server, which is not similar to the software agents communicating with each other, where each software agent has at least a piece of an object code of a distributed computing that is at least partially independent.

In general, an exemplary, non-limiting embodiment of the present invention relates to a distributed computing or architecture. In distributed-computing models and applications, an object-oriented approach is used with larger applications being divided into small containers or “objects” of program code and data. The program objects, commonly referred to as software agents, are distributed to both the server and the clients with the details of network communication hidden from objects through the use of interfaces. This passage is provided by way of an example only and is not intended to limit the scope of the claims in any way.

Kitai, on the other hand, relates to a problem of not being able to dynamically select a network interface and balance the load in accordance with the load state of the network interface in the case of data communication between a client and a server because only one network interface connected with the client can be used though a plurality of network interfaces of the server are present (col. 2, lines 26 to 33). In particular, Kitai teaches a server having a number of network interfaces. The server provides for communication with the client via a number of interfaces in parallel so as to provide satisfying quality of service (QoS) (col. 2, lines 50 to 59).

Kitai further teaches instructions of the program executed by the server to perform generation of a socket and addressing of the socket. After generation and addressing of the socket, the server waits for a request for establishing a connection from any client in accordance with a listen() call. The client generates a socket and thereafter, specifies net1.19, which is one of the network addresses of the server, to request establishing a connection with the server in accordance with a connect() call (Fig. 16; col. 6, lines 36 to 47).

Kitai, however, only teaches software code for generating and addressing sockets for communication between the client computer and the server. In other words, Kitai is not related to a distributed computing and does not address communication between software objects or containers. Kitai only teaches communication between the server and the client. The communication between these hardware devices is accomplished using hardware and software. The software for establishing communication between the client and the server is described in Fig. 16 of Kitai.

That is, Kitai teaches in Fig. 16 software code for facilitating the communication between the client and the server (col. 6, lines 36 to 48). In Kitai, the software code, (the program) is used to provide communication between the server and the client computer. In Kitai, it is not the programs that are communicating with each other but, as is visible from Fig. 16, the programs are directed to establishing a connection, e.g., by identifying the socket. This connection, established by the exemplary program, is for communication between the client computer and the server, two hardware devices. In short, Kitai's programs cited by the Examiner are programs for establishing a connection between the server and the client, and not the software code that communicates with each other.

Moreover, Kitai does not teach or suggest communication between software agents, where the agent is piece of an object code at least partially independent. Kitai only relates to the communication between the client computer and the server and not to a communication between the software agents.

Therefore, "each of said software agents comprises at least a piece of an object code of a distributed computing that is at least partially independent and wherein said software agents use the communication means to communicate with each other," as recited in claim 1 is not disclosed by Kitai, which lacks having software agents comprising of a piece of an object code of a distributed computing that is at least partially independent and which lacks teaching communication between software agents. For at least these exemplary reasons, Applicant respectfully submits that independent claim 1 is patentably distinguishable from Kitai. Applicant therefore respectfully requests the Examiner to withdraw this rejection of independent claim 1.

Also, Applicant respectfully submits that claims 2-6, 12, and 13 are allowable at least by virtue of their dependency on claim 1.

Claim Rejections under 35 U.S.C. § 103

Claims 7-11 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Evans and in view of Kitai. Applicant respectfully traverses this rejection in view of the following comments. Claim 7, among a number of unique features, recites: “said software agents using said communication modules to continue communicating with each other, wherein each of said software agents comprises at least a piece of an object code of a distributed computing that is at least partially independent.” This recitation of claim 7 is somewhat similar to the features argued above with respect to claim 1. Therefore, arguments submitted with respect to claim 1 apply with equal force here.

Evans does not cure the deficient teachings of Kitai. In fact, the Examiner acknowledges that Evans does not teach or suggest the above-identified exemplary features of claim 7 (see page 5 of the Office Action). Evans is only cited for its teaching of detecting a failure (see page 5 of the Office Action). As such, Evans does not cure the deficient teachings of Kitai.

Moreover, the Examiner alleges that one of ordinary skill in the art would have been motivated to combine the references in order to “maintain the balance of network load in an event of a failure” (see page 6 of the Office Action). Kitai, however, is related to providing various communication paths for quality of service. Evans, on the other hand, relates to interconnecting a narrowband communication network with a broadband communication network (col. 1, lines 26 to 67). One of ordinary skill in the art confronted with a problem of

Kitai would not have turned to the unrelated teaching of Evans. In short, there is no motivation to combine the references in the manner suggested by the Examiner.

For at least these exemplary reasons, Applicant respectfully submits that claim 7 is patentable over Kitai in view of Evans. It is appropriate and necessary for the Examiner to withdraw this rejection of claim 7. Claims 8-11 are patentable at least by virtue of their dependency on claim 7.

#### New Claim

In order to provide more varied protection, Applicant adds claim 14. Claim 14 is patentable at least by virtue of its dependency on claim 7. In addition, the Examiner acknowledges that Evans fails to teach or suggest communication between software agents (see page 5 of the Office Action). Kitai only teaches communication between the client computer and the server (col. 6, lines 19 to 27). Kitai fails to teach or suggest direct communication between two software agents at a location remote from the server. In Kitai, the client computer communicates via server and not directly with each other. For at least this additional reason, claim 14 is patentable over the combined teachings of Evans and Kitai.

#### Conclusion

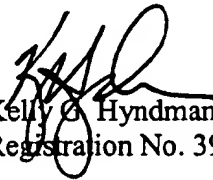
In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly invited to contact the undersigned attorney at the telephone number listed below.

Amendment under 37 C.F.R. § 1.111  
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The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,

  
Kelly O. Hyndman  
Registration No. 39,234

SUGHRUE MION, PLLC  
Telephone: (202) 293-7060  
Facsimile: (202) 293-7860

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